

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION**

UNITED STATES OF AMERICA, *ex rel.*
ALEX DOE, Relator, THE STATE OF
TEXAS, *ex rel.* ALEX DOE, Relator, THE
STATE OF LOUISIANA, *ex rel.* ALEX DOE,
Relator,

Plaintiffs,

v.

PLANNED PARENTHOOD FEDERATION
OF AMERICA, INC., PLANNED
PARENTHOOD GULF COAST, INC.,
PLANNED PARENTHOOD OF GREATER
TEXAS, INC., PLANNED PARENTHOOD
SOUTH TEXAS, INC., PLANNED
PARENTHOOD CAMERON COUNTY,
INC., PLANNED PARENTHOOD SAN
ANTONIO, INC.,

Defendants.

No. 2:21-cv-022-Z

DEFENDANTS' NOTICE OF INTENT TO FILE MOTION FOR RECONSIDERATION

Defendants Planned Parenthood Federation of America, Inc., Planned Parenthood Gulf Coast, Inc., Planned Parenthood of Greater Texas, Inc., Planned Parenthood South Texas, Inc., Planned Parenthood Cameron County, Inc., and Planned Parenthood San Antonio, Inc. (collectively, "Defendants") hereby file this Notice to formally apprise the Court of their intent to file a Motion for Clarification and Reconsideration ("Reconsideration Motion") of the August 4, 2023 Order (ECF No. 517) ("Unsealing Order") pursuant to Federal Rule of Civil Procedure 59(e) on or before September 1, 2023. *See* Fed. R. Civ. P. 59(e) (motion "must be filed no later

than 28 days after the entry of the judgment”).¹

Yesterday, without meeting and conferring with Defendants, Relator filed in the public record Plaintiffs’ unsealed Appendix (ECF No. 518), Supplemental Appendix (ECF No. 519), and Second Supplemental Appendix (ECF No. 520) (collectively, the “Appendices”). Relator appears to have attempted to make redactions consistent with the Court’s Unsealing Order, but there were numerous errors, and the documents that Relator re-filed made public portions of documents that the Unsealing Order directed should remain under seal. In addition, Defendants intend to seek reconsideration of the Unsealing Order.

As Defendants were preparing to file an Emergency Motion to request that the publicly filed Appendices be sealed pending Defendants’ filing of their Reconsideration Motion, the Court entered an Order directing the Clerk’s office to provisionally place the Appendices under seal and to maintain the sealing of Plaintiffs’ summary judgment briefing. *See* ECF No. 522 (“Through correspondence with Defendants’ local counsel, the Court has been notified that Defendants intend to move the Court to reconsider its ruling. Accordingly, the Court DIRECTS the Clerk’s office to provisionally seal Relator’s filings identified above and maintain the sealing of Plaintiffs’ summary judgment briefing (ECF Nos. 476, 481, 495).”). The Court’s Order is consistent with what other courts have done in similar circumstances, recognizing that unsealing documents pursuant to an unsealing order is “a bell that cannot be unrung” and documents should remain sealed as parties seek reconsideration or take an appeal. *Walmart Inc. v. Synchrony Bank*, 2020 WL 475829, at *5 (W.D. Ark. Jan. 29, 2020); *see also United States ex rel. Reeves v. Merrick & Co.*, 2012 WL 8527783, at *2 (E.D. Tenn. Sept. 14, 2012) (staying

¹ Because orders to seal or unseal are collateral orders subject to appeal under the collateral order doctrine, a motion for reconsideration of such motions amounts to a motion to alter or amend a final judgment under Rule 59. *See Bradley on behalf of AJW v. Ackal*, 954 F.3d 216, 223 (5th Cir. 2020) (unsealing orders appealable under the collateral order doctrine).

unsealing order “for thirty (30) days so that any party may file a motion for reconsideration or notice of appeal”). Doing so merely “preserve[s] the status quo and prevent[s] irreparable harm.” *In re Search Warrant for Second Floor Bedroom*, 489 F. Supp. 207, 212 (D.R.I. 1980).

Dated: August 8, 2023

O'MELVENY & MYERS LLP

By: /s/ Danny S. Ashby

DANNY S. ASHBY
Texas Bar No. 01370960
dashby@omm.com
MEGAN R. WHISLER
Texas Bar No. 24079565
mwhisler@omm.com
2501 N. Harwood Street, Suite 1700
Dallas, Texas 75201
T: (972) 360-1900
F: (972) 360-1901

LEAH GODESKY (*pro hac vice*)
lgodesky@omm.com
1999 Avenue of the Stars, 8th Floor
Los Angeles, California 90067
T: (310) 553-6700
F: (310) 246-6779

RYAN BROWN ATTORNEY AT LAW
RYAN PATRICK BROWN
Texas Bar No. 24073967
ryan@ryanbrownattorneyatlaw.com
1222 S. Fillmore St.
Amarillo, Texas 79101
T: (806) 372-5711
F: (806) 350-7716

*Attorneys for Defendant Planned Parenthood
Federation of America, Inc.*

ARNOLD & PORTER KAYE SCHOLER LLP

By: /s/ Tirzah S. Lollar

CRAIG D. MARGOLIS
Craig.Margolis@arnoldporter.com
TIRZAH S. LOLLAR
Tirzah.Lollar@arnoldporter.com
CHRISTIAN SHEEHAN
Christian.Sheehan@arnoldporter.com
EMILY REEDER-RICHETTI
Emily.Reeder-Ricchetti@arnoldporter.com
MEGAN PIEPER
Megan.Pieper@arnoldporter.com
ALYSSA GERSTNER
Alyssa.Gerstner@arnoldporter.com
MEGHAN C. MARTIN
Meghan.Martin@arnoldporter.com
601 Massachusetts Ave, NW
Washington, DC 20001-3743
Telephone: +1 202.942.6127
Fax: +1 202.942.5999

PAULA RAMER
Paula.Ramer@arnoldporter.com
250 West 55th Street New York,
New York 10019-9710
T: +1 212.836.8474

CHRISTOPHER M. ODELL
Texas Bar No. 24037205
Christopher.Odell@arnoldporter.com
700 Louisiana Street, Suite 4000
Houston, TX 77002-2755
Telephone: +1 713.576.2400
Fax: +1 713.576.2499

RYAN BROWN ATTORNEY AT LAW
RYAN PATRICK BROWN
Texas Bar No. 24073967
ryan@ryanbrownattorneyatlaw.com
1222 S. Fillmore St.
Amarillo, Texas 79101
T: (806) 372-5711
F: (806) 350-7716

*Attorneys for Defendants Planned Parenthood Gulf
Coast, Inc., Planned Parenthood of Greater Texas, Inc.,
Planned Parenthood South Texas, Inc., Planned
Parenthood Cameron County, and Planned Parenthood
San Antonio*

CERTIFICATE OF SERVICE

I hereby certify that on August 8, 2023, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system, which will send a notice of electronic filing to all participating counsel of record.

/s/ Danny S. Ashby